

APPEAL NO. 040816
FILED MAY 24, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on March 9, 2004. The hearing officer resolved the disputed issues by deciding that the appellant (claimant) sustained a compensable injury on _____; that the respondent (carrier) is not relieved of liability under Section 409.002 because the claimant timely notified his employer of his claimed injury; and that the claimant had disability from June 9 through July 6, 2003. The claimant appeals the hearing officer's determination on the disability issue, contending that the evidence proves that he had disability from the date of the injury through the date of the CCH, and that the hearing officer's determination on the disability issue is against the great weight of the evidence. The carrier contends that sufficient evidence supports the hearing officer's determination on the disability issue. There is no appeal of the hearing officer's determinations that the claimant sustained a compensable injury and that he gave timely notice of the injury to the employer.

DECISION

Affirmed.

The claimant had the burden to prove that he had disability, which is defined in Section 401.011(16) as the inability because of a compensable injury to obtain and retain employment at wages equivalent to the preinjury wage. Conflicting evidence was presented on the disability issue. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the finder of fact, the hearing officer resolves the conflicts in the evidence and determines what facts have been established. Although there is conflicting evidence on the disability issue, we conclude that the hearing officer's determination on that issue is supported by sufficient evidence and is not so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

We affirm the hearing officer's decision and order.

The true corporate name of the insurance carrier is **NEW HAMPSHIRE INSURANCE COMPANY** and the name and address of the registered agent for service of process is

**CORPORATION SERVICE COMPANY
800 BRAZOS, SUITE 750, COMMODORE 1
AUSTIN, TEXAS 78701.**

Robert W. Potts
Appeals Judge

CONCUR:

Gary L. Kilgore
Appeals Judge

Margaret L. Turner
Appeals Judge